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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,374	01/14/2004	Vito James Carlucci	884.0217USU	3611

7590 02/09/2005

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3749

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,374	<b>Applicant(s)</b> CARLUCCI ET AL.	
	<b>Examiner</b> Stephen Gravini	<b>Art Unit</b> 3749	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-7, 9-13, 15-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Slingo (US 6,378, 225). Slingo is considered to disclose the claimed invention comprising:

a body **10** having a handle portion **30** and a head portion **20**, said head portion having a blower **40** for generating airflow, a primary heater **60** for providing heat to said airflow, and a secondary heater **100** selectively providing radiant energy said airflow as desired; or alternatively

a body **10** having at least two portions, a first portion **20** and a second portion **30**, said first portion accommodating at least a primary heating source **60** and a secondary heating source **100**, said second portion accommodating a control interface **32** for allowing an operator to control a heating effect of said primary heating source and/or said secondary heating source, or the heating effect provided by said primary heating source and/or said secondary heating source, individually and/or together as desired (please see column 2 lines 32-38 for the individual and/or together feature). Slingo is also considered to disclose the claimed control interface enables an operator to at least activate and/or deactivate said secondary heater (column 2 lines 32-38), primary convection heater (column 1 line 45), secondary infrared heater (column 2 line 47), secondary PTC ceramic heater (column 2 line 39), head a first end with an portion has

Art Unit: 3749

air ingress and a second end with an air egress with said secondary heater centrally disposed at said second end as shown in figure 1 and disclosed at column 2 line 43, a first portion blower for generating airflow (column 2 line 22), and wherein said blower, or the effect provided thereby to said airflow, is controlled via said control interface (column 2 lines 32-38).

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Karey et al. (US 4,757,183).

***Claim Rejections - 35 USC § 103***

Claims 8, 14, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slingo in view of Polaert (US 5,790,749). Slingo is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects. Polaert, another hair dryer, is considered to disclose a self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects at column 3 line 45 through column 4 line 6. It would have been obvious to one skilled in the art to combine the teachings of Slingo with the self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects, considered to be disclosed in Polaert for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slingo in view of Pollack (US 2002/0006275). Slingo is considered to disclose the claimed

Art Unit: 3749

invention, as discussed above under the anticipatory rejection, except for the claimed feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto. Pollack, another dryer, is considered to disclose a feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto in paragraph 27 and paragraph 31. It would have been obvious to one skilled in the art to combine the teachings of Slingo with the feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto, considered to be disclosed in Pollack for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

### ***Response to Arguments***

Applicant's arguments filed December 20, 2004 have been fully considered but they are not persuasive.

#### ***anticipation***

Applicants argue that primary reference Slingo does not anticipate the first independent claim because the disclosed electric heater and ceramic radiator do not perform the claimed primary heater and secondary heater. By applicants own arguments, both heaters are separate which inherently anticipated the claimed primary and secondary heater. Applicants further argue that the statement of intended use of the secondary heater patentably distinguishes the invention over the primary reference. However the disclosed ceramic heater inherently anticipates the intended use for

selectively providing radiant energy to the air flow as desired because as the electric heater heats the ceramic radiator, the heat retained by the ceramic material properties allow the claimed intended use since ceramic retains heat to provide radiant energy to airflow as desired. Since applicants' arguments are not persuasive to overcome limitations of claim 1, and claims 2-7 and 9 are not separately argued, those claims are also anticipated by Slingo. The anticipatory rejection is considered proper and therefore maintained.

Applicants again argue that Slingo does not disclose or suggest a secondary heating source, but the secondary heating source is considered to be anticipated by the ceramic radiator discussed in the previous paragraph. Likewise, since applicants' arguments are not persuasive to overcome limitations of claim 10, and claims 11-13 and 18 are not separately argued, those claims are also anticipated by Slingo. The anticipatory rejection is considered proper and therefore maintained.

*obviousness*

Applicants argue that Polaert does not disclose or suggest any secondary heater for selectively providing radiant energy to the airflow as desired, let alone with the secondary heater being self-regulating. In the section rejected above, Polaert expressly discloses an analog or digital circuit separately controlling heating power and air control rate with a sensor and control means for adjusting the power or rate. This express disclosure is considered to provide the motivation and suggestion to combine the claimed features of selectively providing energy and self regulation in order to obviate

Art Unit: 3749

the rejection. Likewise claims 11-19 follow the same reasoning such that those claims are obviated. The obviousness rejection is considered proper and therefore maintained.

Initially any one of the references can be used to anticipate the claimed feature of primary heating source initially heats said airflow, and wherein said secondary heating source selectively provides radiant energy thereto found in claim 17. Tertiary reference Pollack was cited to show the obviousness of that claimed feature when read in light of a primary and secondary reference. Applicants argue features not found in claim 17 but rather its parent claims and that Pollack is improperly cited. Pollack was not cited to teach all the limitations of the parent claims but rather the obviousness to combine those teachings with the teachings of the prior art. The obviousness rejection is considered proper and therefore maintained.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3749

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 571 272 4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG  
February 5, 2005

*Steph M Gravini*